

W.C. 4
C/WA
P8151/47703/11

Smith's Trial.

A
FULL AND AUTHENTIC

R E P O R T

OF THE

T R I A L

OF

ENSIGN EDWARD SMITH,

OF THE DURHAM FENCIBLES,

FOR A

R A P E

ALLEGED TO HAVE BEEN COMMITTED ON THE BODY OF

MISS SARAH RAWSON,

AT AN ADJOURNMENT OF A

COMMISSION OF OYER AND TERMINER,

HELD IN AND FOR THE COUNTY OF DUBLIN,

On TUESDAY, the 7th Day of OCTOBER, 1800.

TAKEN IN SHORT HAND BY

Leonard Mac Nally, junior.

Cork.

PRINTED BY J. CONNOR, CIRCULATING-LIBRARY,
CHATTERTON'S-BUILDINGS.

1800.

1845

1845

1845

1845

1608/4009

1845



1845

1845

1845

1845

1845

1845

1845

1845

1845

1845

1845

1845

**FULL AND AUTHENTIC
REPORT, &c.**

Sessions-House, Green-street, 7th October, 1800.

Commission of Oyer and Terminer, and General
Gaol Delivery, held before the Right Hon. Lord
KILWARDEN, C. J. and the Right Hon. Justice KELLY.

This day, Ensign EDWARD SMITH was brought into
Court, from the Gaol of Kilmainham, in the County
of Dublin, and arraigned on the following indictment:

INDICTMENT.

County of Dublin, } **T**HE Jurors for our Lord the
to wit. } King, upon their oath, say and
present that EDWARD SMITH, late of Tallagh, in the
county of Dublin aforesaid, gentleman, on the 6th
day of August in the fortieth year of the reign of our
Sovereign Lord George the Third, by the Grace of
God, of Great Britain, France and Ireland, King,
B Defender

Defender of the Faith and so forth, with force and arms, that is to say with swords, sticks and so forth, at Tallagh, in the said County of Dublin, in and upon one SARAH RAWSON, spinster, a true and faithful subject of our said Lord the King, in the peace of God, and of our said Lord the King, then and there being, feloniously did make an assault, and her the said Sarah Rawson, then and there, by force, and contrary to the will and consent of her the said SARAH RAWSON, feloniously did ravish, and carnally did know, contrary to the peace of our said Lord the King, his Crown and Dignity, and contrary to the form of the Statute in that case made and provided.

To this indictment, Mr. Smith pleaded NOT GUILTY, and for trial, put himself on God and his Country.

Counsel for the prosecution. Counsel for the Prisoner.

J. GREENE, Esq.

L. MAC NALLY, Esq.

W. RIDGEWAY, Esq.

Agent, Mr. T. MURRAY.

Agent, Mr. BYRNE.

The following Jury were then Sworn.

Thomas Wildridge, Foreman

Joseph Bolland,

William Poole,

John Byrne,

John Carr,

William Bond,

Edward Keightley,

Robert Craig,

Arthur Orde,

George Lafant,

Paul Orpin,

John Hill.

Mr. GREENE, counsel for the prosecution, declined stating any case; Miss Sarah Rawson, was, therefore, immediately called.

Miss Sarah Rawson,

Examined by Mr. GREENE.

Q. Are you a married woman?—A. No, Sir. Q.
Do you recollect the 6th of August last?—A. Yes, Sir.

Sir. Q. Do you recollect to have seen Mr. Smith on the day you mention?—A. Yes Sir. Q. About what hour did you see him on that day?—A. About twelve or one o'clock in the day. Q. Where was it you saw Mr. Smith on that day?—A. In the fields, in Reilly's fields, in the neighbourhood of Tallagh. Q. At what distance: how far do you suppose that the place you call Reilly's fields are from the town?

CHIEF JUSTICE. Do you know the Bishop's palace?—A. Yes, my Lord. Q. Is it near that on the side nearer to Tallagh, or on the side next Dublin?—A. On the side next Dublin, my Lord.

Mr. GREENE. You say you saw Mr. Smith at that place: were you alone?—A. He came up to me. Q. Were you alone?—A. Yes, Sir. Q. Was the prisoner at the bar also alone?—A. Yes, Sir. Q. On what occasion was it that you were in those fields alone?—A. I was going for rents. Q. Due to whom?—A. Due to me. Q. Where were they due?—A. In the town of Tallagh. Q. And you were on your return to where?—A. To my lodgings. Q. Where were your lodgings: were the fields on the road to your lodgings?—A. Yes, Sir. Q. Was there any pathway through the fields?—A. Yes, Sir. Q. Are we to understand that you went the pathway or the fields?—A. The pathway. Q. You said Mr. Smith met you?—A. No; but his horses were at the other side, and his servant was with him, and called out that I was there, and then he followed me as hard as he could, I did not see the servant, he was catching the horses for his master. He pursued me. Q. Did Mr. Smith overtake you?—A. He did indeed, Sir. Q. Mention how he addressed you?—A. He gripped me by the back of the neck. Q. Did he say any thing to you?—A. Not a word, at that time. Q. What else happened?—A. He did not meddle with me then, but took me into another field. Q. Where did you go from those fields?—A. Into

—A. Into another of the Minister's. Q. Did you go by force?—A. By force? Q. Then Mr. Smith obliged you to go from the fields he met you in, to the Minister's field, as you call it against your will?—A. He did, Sir. Q. State to the Court and the Jury, on your oath, what happened to you there.

CHIEF JUSTICE. What side of the Tallagh road were you on; was it on the same side with the Minister's field?—Yes, my Lord. Q. On what side was the Minister's field on?—A. On the left hand. Q. Was it on the same road?—A. Yes, my Lord. Q. Was the field of the Minister that you say the prisoner at the bar took you to on the same side with the Minister's house?—A. Yes, Sir. Q. Which way was your face?—A. Towards Blessington.

MR. GREENE. You say, Miss Rawson, the prisoner at the bar compelled you to go along with him: what happened afterwards?—A. He took down his small clothes, and wanted to have to say to me, and I wanted to leap over the ditch, and he gripped me, and swore I should not. Q. Did he accomplish his intentions on that occasion?—A. No, Sir; but he did his utmost — Q. And you resisted and with effect?—A. Yes, Sir. Q. What happened after?—A. Then he took me forcibly into the Bishop's shrubbery.

CHIEF JUSTICE. I would be glad, Mr. Greene, if you would make the lady describe what part of the Bishop's shrubbery.

MR. GREENE. Be so good, Miss Rawson, to mention what part of the Bishop's shrubbery he took you to?—A. Outside of his garden, adjoining the Bishop's field.

CHIEF JUSTICE. Then it was the side of the shrubbery from the road?—A. Yes, Sir.

MR. GREENE. Did you meet with any people?—No, Sir. Q. Then you had no opportunity to call out?—A. No, Sir— Q. After Mr. Smith had conducted

you by force, did he proceed to any act of violence; state what he did?—A. He took down his small clothes and had to do with me, and then like a dog, he threw me down in a place where there were briars. Q. And had to say to you by force and against your will?—A. Yes, Sir, by force, and against my will. Q. Had the prisoner at the bar criminal knowledge of your person, by force, and against your will?—A. On my oath he had. Q. After the prisoner had effected his purpose, what did he do next?—A. He took me and brought me forcibly to his barrack: he is an ensign in the Durham Fencibles.

MR. JUSTICE KELLY. An Ensign in the Durham Fencibles!

MR. MAC. NALLY. Yes, my Lord, but an Irishman!

Q. How far were his barracks from the place where he had knowledge of your person against your will?—A. Just in a straight line.

CHIEF JUSTICE. Pray, madam, will you tell, did he bring you into the barrack by the front gate or how?—A. I believe at the back.

MR. GREENE. After he brought you to the barrack, how did he dispose of you?—A. He put me into his barrack-room. Q. After he had deposited you there, what did he then do?—A. He took me forcibly and threw me on the bed. Q. Did he repeat the same act and accomplish it?—A. He did, Sir.

MR. JUSTICE KELLY. Pray, my good girl, how soon was it after he had ravished you in the field, that he ravished you again?—A. It was about a couple of hours, my Lord.

CHIEF JUSTICE. I would be glad, Mr. Greene, that you would explain where the barrack window looks into?

MR. GREENE. How did the window of the room face?—A. Back into the garden, and the door was opposite to the house where the great stair-case was.

Q. Did

Q. Did he repeat that violence by force, and without your consent?—**A.** By violence and without my consent.

CHIEF JUSTICE. Are you speaking, Mr. Greene, of a third time?

MR. GREENE. Yes, my Lord.

MR. JUSTICE KELLY. You say he ravished you a third time: how soon was that after the second time he ravished you?—**A.** About one hour, my Lord.

MR. GREENE. Were you at your liberty in the room at the barrack?—**A.** No, I was not. **Q.** How otherwise?—**A.** The door was always locked on me.

Q. By virtue of your oath, how long were you confined there against your will?—**A.** Three days. **Q.**

What was the day of the week, that Mr. Smith first ravished you?—**A.** On a Wednesday. **Q.** And made your escape, when?—**A.** On the Saturday following.

Q. How often, during that time, had the prisoner to say to you, as you express it?—**A.** As often as he chose.

CHIEF JUSTICE. Did he go to bed to bed to you?—**A.** He did. **Q.** But it was against your will?—**A.** It was.

MR. GREENE. But on Saturday you did get out?—**A.** For some clean clothes: I wanted some. **Q.** And on that account it was that you were suffered to go away?—**A.** Yes. **Q.** Had you any conversation with the prisoner, that occasioned your being suffered to go?—**A.** No. **Q.** But you said you wanted clothes, and made that a pretence, and on that account you were liberated?—**A.** Yes, Sir. **Q.** Where did you go afterwards?—**A.** I went to my lodgings.

CHIEF JUSTICE. Ask her where she lodges?

MR. GREENE. Where do you lodge?—**A.** A little above the town of Tallagh with Mrs. Hill.

CHIEF JUSTICE. Is that the place of your residence?—**A.** Yes, my Lord.

Cross-examined by Mr. MAC NALLY.

Q. I believe, madam, the Bishop's palace has been lately converted into a barrack?—A. Yes, Sir. Q. Can you form an idea of how many officers reside in the barrack?—A. I cannot tell.

CHIEF JUSTICE. Do you mean, Mr. McNally, that the whole of the house is in a barrack?

Mr. MAC NALLY. Yes, my Lord, so I understand. Q. I ask you this, Miss Rawson, is not the lower part of the house lately converted into a barrack?—A. It is. Q. Are not the officers' apartments there?—A. I cannot tell. Q. Don't you believe that several of the Officers have apartments there: you have no doubt but Ensign Smith has apartments there?—A. Yes, he has. Q. Don't you believe that other officers have?—A. I cannot tell. Q. Did you see a great number of soldiers there?—A. No, Sir. Q. When you looked out of the window of Ensign Smith's apartments, did you not see a great number of soldiers walking about?—A. No, Sir. Q. Did you ever look out to see them?—A. No, Sir.

CHIEF JUSTICE. Would you have seen the soldiers, if you had looked out?—A. I could not. Q. Did the prisoner ever leave the room?—A. Yes. Q. He left you by yourself?—A. Yes. Q. How many windows were in the room?—A. One. Q. Could you get up to it?—A. If I had I should have broke my neck. Q. You mean, if you had leaped out of it, you would have broke your neck?—A. Yes, Sir.

Mr. MAC NALLY. Did you ever try if the window would lift up?—A. I never tried. Q. Did you never attempt to raise the window?—A. No, Sir. Q. But you made a dreadful kicking at the apartment door, when you were left alone?—A. No, Sir. Q. Did you thump at it with your hands?—A. I did. Q. This transaction happened in summer?—A. It did.

Q. Were there any fire-irons in the room?—A. I cannot tell. Q. Then you did not make any use of the fire irons to force the door?—A. No, Sir. Q. What kind of a lock was on the door?—A. Brass one. Q. Did you try to force the lock?—A. I did, but could not. Q. What did you try to force the lock with?—A. With a scissars or knife, there was no other weapon in the room.

Mr. JUSTICE KELLY. Pray, my good girl, who attended you in the room?—A. Mr. Smith's servant.

Q. Who brought your victuals unto you all the time?—A. His servant. Q. And pray who brought the drink unto you?—His man. Q. And pray my good girl, who eat with you?—A. Mr. Smith to be sure.

Q. And so you and Mr. Smith eat together and breakfasted together?—A. We did.

Mr. MACNALLY. You will remember, Miss Rawson, that you are upon your oath: did you never see Mr. Smith until the sixth day of August?—A. I did not to know him. Q. Is there no such thing at Tallagh as a pattern, where ladies go of an evening to take cakes and ale and be merry?—A. Yes, Sir. Q. Do you recollect what time those patterns are held?—A. About the 7th of July. Q. Do you recollect that you were at a pattern on the seventh of July?—A. I was. Q. And that Mr. Smith was there?—A. No indeed, Sir, I do not. Q. Will you swear you had no conversation with him at that pattern: do you recollect having any conversation with him about the soldiers having spoken impudently to you?—A. That was the first time he came to Mrs Hill's house. Q. Mrs. Hill is a remarkably good natured woman?—A. I cannot tell. Q. Don't you believe her to be of an excellent character?—A. I believe she is. Q. You never saw her intoxicated in your life?—A. Never. Q. She never went to the barrack?—A. No; never, till she came to demand me, and he would not let me

away

away with her. Q. Was it not on the fourth of August that you had the conversation with Mr. Smith at Mrs. Hill's—A. No, Sir. Q. Was it not before you were ravished?—A. I never spoke two words to him in my life. Q. Do you say you never saw him until you saw him in the field?—A. I saw him once. Q. How long was that before you met him in the field?—A. To the best of my opinion it was a fortnight. Q. Did you not meet him that day in the field by appointment, and not by accident—A. No, Sir. Q. You went to gather your rents?—A. I did. Q. And Mr. Smith came up to you without your expectation?—A. Yes. Q. He ran up to you?—A. Yes, until I thought, he would have broke his neck. Q. Then you were running, were you not, to meet him?—A. No, Sir. Q. Do you recollect the accident of stooping down that day to pull up the quarter of your shoe?—A. No, Sir, I do not. Q. No such thing happened?—A. No, Sir. Q. Do you know Mr. Molloy, the bishop's steward?—A. No, Sir; nor never saw him. Q. Did you not see him on the day these terrible affairs happened to you?—A. I did not. Q. Don't you recollect that before you and the prisoner at the bar went into the barrack and field that you took a glass of white wine together?—A. No, Sir. Q. Don't you recollect that after Mr. Smith had committed this sacrilege in the bishop's shrubbery you have stated, that he left you with the white wine bottle and glass, and that he went round the house and let you in at the back door?—A. No, Sir. Q. At what part of the bishop's house was it that you went in?—A. At the back part. Q. Were there any servants?—A. No, there were not. Q. How did you get in?—A. At the arches of the long wall. Q. What time of the day was it?—A. It was about twelve or one o'clock. Q. Was it not into the house you were brought?—A. No it was not, it was backwards. Q. A considerable

way from the first entrance?—A. Yes. Q. Did you not see a single soldier?—A. Not one. Q. Then there were no centinels?—A. No, Sir. Q. You saw no soldiers in the ball court playing ball?—A. No, Sir. Q. Do you know Jane Kane?—A. No. Q. The road you were on was in your way home?—A. It was the straight road to my lodging. Q. It is not the road that goes to Tallagh?—A. No, it leads to Blessington. Q. How near the high road?—A. Just to go over a ditch.—Q. You knew that at the time?—A. I did. Q. Then you cried out?—A. I did; but it was of no use to me. Q. Could you have been seen from the high road?—A. Yes. Q. Could you have been heard?—A. Yes. Q. Did Mr. Smith hold you all the time whilst he led you from Reilly's fields to the Minister's field?—A. Yes, he held me forcibly all the time with both his hands.

CHIEF JUSTICE. You say might have been seen and heard from the Minister's fields?—A. Yes, my Lord; but he clapped his hand on my mouth. Q. Is it not a very great thorough-fare?—A. Yes, my Lord; but there was no body present.

MR. MACNALLY. You were together, you say, in Reilly's field and the Minister's field, and it was there he first had his will of you?—A. No, it was in the bishop's shrubbery; it was there that he did his utmost. Q. And so the more he did, the more he was able to do: might he not have quit you?—A. No, he never left the spot. Q. I am not speaking of the spot, but how did he hold you?—A. He held me between his legs. Q. The first time that he made the attempt he did not perpetrate the fact?—A. Yes, he did forcibly. Q. Did he commit a rape the first time he took down his breeches?—A. Not the first time. Q. There was a great struggle between you?—A. Yes, with me at any rate. Q. Then Mr. Smith did not struggle?—A. Yes; he did to keep me forcibly. Q.

His small cloaths were down?—A. Yes. Q. At last you both got up?—A. Yes. Q. At the time you got up, when Mr Smith had his cloaths down, why did you not run away?—A. I made an attempt to escape through the hedge, and he gripped me, and held me forcibly. Q. Do you recollect how deep the ditch was?—A. You would be ankle deep in it. Q. Then you must have been very dirty?—A. No, I was not: he held me still. Q. Had you been thrown down in the dirt?—A. No, I had not. In the first ditch he held me forcibly, and I told him I would have his life; and he swore, by his eternal Saviour, he did not care a fig for me. Q. And he held you, you say, with both his hands?—A. Yes. Q. Then how did he contrive to get down his small cloaths?—A. With one hand. Q. How did you get to the top of the ditch?—A. He held me still, and brought me forcibly over it. Q. Was the bank as high as your head?—A. No. Q. About breast high?—A. Yes. Q. Who got out of the ditch first?—A. Neither; for he held me all the time. Q. Then he did not get up to help you?—A. No, we both got up together: he dragged me forcibly over the ditch. Q. There is a school near the place?—A. There is. Q. Did you see any of the boys coming from school that day?—A. No: he held me forcibly.

CHIEF JUSTICE. Was the path in view of the school?—A. No, my Lord. Q. How far from it?—A. About a quarter of a mile. Q. What school are you speaking of?—A. Armstrong's school.

MR. MACNALLY. How far was the Minister's house?—A. Not far. Q. But it was within view of the road: if you had cried out, you must have been heard?—A. Yes: but he kept his hand on my mouth. Q. You were three days in Mr. Smith's rooms at his barracks?—A. Yes. Q. The very time that Jonah was in the whale's belly! did he stay at home the whole

whole of that time with you?—A. No. Q. He went in and out occasionally?—A. Yes. Q. And did not his servant come in and out of the room occasionally?—A. He did: but he locked the door after him, there were two keys, and the master and man kept one each. Q. Do you recollect your ever keeping the key of the chamber door?—A. No. Q. Dinner came into you regularly every day?—A. No: it came in once whilst I was in it.

CHIEF JUSTICE. Did you get dinner but once?—A. It was handed in, but I did not eat any of it.

Mr. MAC NALLY. You went to bed every night?—A. Yes: but he striped me and forcibly put me to bed. Q. Don't you believe if you had cried out in the room that you would have been heard?—A. No, I don't believe I would: don't believe there was any body in the rooms. I did not cry out, but I cried to him.

CHIEF JUSTICE. I want to know where she was.

Mr. MAC NALLY. When you came up to the room you were in, what part of the bishop's palace was it?—A. It was in the back part.

CHIEF JUSTICE. You were in the back part of the building?—A. Yes, my Lord. Q. There are offices surrounding all that part of the house: were you in the line of the building of the great yard where some of the servants used to live when the bishop was at home?—A. Yes. Q. Then you were in the range of offices directly facing the house, and the garden was behind you?—A. Yes, my Lord. Q. Are the gardens kept in order, or are there servants working there?—A. Yes. Q. Are there not soldiers quartered there?—A. Yes. Q. And pray could you not have seen into the bishop's garden?—A. Yes, my Lord. Q. Was your window a casement or a sash?—A. Yes, a sash. Q. Could you not have broken the panes or the sash?—A. Yes, I could, if

if there was any body to help me. Q. Did you call out?—A. I did, and nobody came near me. Q. Did you look about for a pen?—A. No, I did not. Q. The building you were in was narrow: and if you made a noise, would it not have been heard in the court-yard?—A. I don't think it would. Q. How many steps did you go up the chamber?—A. One flight. Q. And you think if you had made a great noise it could not have been heard: are there more than nine or eight steps up to the chamber?—A. Yes, my Lord, there are. Q. There are more?—A. Yes: they are short stairs.

MR. MAC NALLY. Was the room you were in coved or flat?—A. It was coved. Q. He had an officer's bed?—A. Yes.

CHIEF JUSTICE. And his servant had a second key to the room?—A. Yes, my Lord.

MR. MAC NALLY. You have said there was only one window that looked into the gardens?—A. Yes: three in front and only one in the back. Q. Where did the other windows look into: did they look into the town of Tallagh?—A. No. but you could see the tops of the houses. Q. Did no female visit you whilst you were in confinement?—A. No. Q. Did you take tea with any female?—A. No. Q. Did you not drink tea with the servant maid?—A. No. Q. Did you ever see her?—A. Yes, I did at a distance from me. Q. Where was the servant maid when you saw her?—A. Putting out cloaths: I saw her from the back window. A. It was from the back window you say you saw her?—A. Yes. Q. Where was she putting out the cloaths? A. To the best of my opinion it was in the part of the garden. Q. And you saw her in the garden?—A. Yes, Sir. Q. Did you speak to the servant woman?—A. No. Q. Did she come into the room whilst you were confined?—A. I did not see her. Q. Do you recollect dandling a little child belonging to the servant woman

man, by way of anticipation?—A. No, Sir. Q. Has not the the servant woman a child?—A. I cannot tell. Q. How did you come to know, if you never spoke to her or saw her in the room, that she was the servant woman?—A. I heard it from the neighbours.

CHIEF JUSTICE. Did you not say that she was at a great distance from you?—A. Yes, my Lord.

Mr. MAC NALLY. Was ensign Smith so ungallant as not to let the servant woman make the bed. Who lent you the night cap you wore?—A. I got it from the servant man. Q. You did not think it was decorous to go to bed to a gentleman without a night cap, and therefore you called for one and you put it on?—A. I did not call for it, but he did, and put it on me. Q. What became of the cap?—A. I can't tell. Q. On your oath, Miss Rawson, did you not return the cap to the servant woman, and say "I shall want it again to-morrow." I do not suppose you kept the cap?—A. No, I did not say so, nor return it to any body. Q. Had you a shawl on you when you went forcibly into this room?—A. I had. Q. Who did you present that shawl to?—A. I left it on the foot rail of the bed. Q. Then you did not give that to the servant woman?—A. No, I did not. Q. When you parted the captain to go to Mrs. Hill's, did he give you any thing?—A. Not a guinea. He offered me money, but I left it on the bed. Q. How did you get away?—A. When he went out, I went under pretence of getting clean cloaths. Q. That was what you said to him?—A. No, it was not. Q. You say he gave you no money?—A. Yes. Q. Did you never apply to him with Mrs. Hill about a small sum of money?—A. No: I did not want money from him; and on my honour I don't believe he had it. Q. Did he ever visit you at Mrs. Hill's?—A. One night in his *tantrums*: and only once. Q. How often did Mrs. Hill apply to him, and get a bottle of brandy?—A. No,

A. No, Sir, she did not apply or get a drop of brandy from him. Q. Do you swear she never got a drop from him?—A. I do. Q. Nor you never drank any brandy or wine with him in his apartments?—A. I did. Q. How soon after you left the barrack did you lodge informations against Mr. Smith before a magistrate?—A. In about a week after. Q. Was it in a week, or was it at a greater distance of time?—A. To the best of my opinion it was in a fortnight after. Q. Do you now follow the business you were bought up to?—A. I do not. Q. How long since you left off?—A. about six years. Q. What was the business you were bred to?—A. Millinery business. Q. You served your time in Dublin?—A. I did. Q. How long were you with your Mistress in Dublin?—A. About five years. Q. Do you know Mr. Mc Nab, the attorney?—A. I do. Q. Is he not in court: was it not him that advised you to bring forward this prosecution?—A. It was not: It was to him I first made application about swearing; but I was determined at the time to do it. Q. On your oath, do you know Mr. Jones the clergyman, the curate of Rathcoole?—A. No, I do not. Q. Did you at any time say to any gentleman that you would make up this business?—A. No I did not. Q. You never wanted Mr. Smith to marry you?—A. No, I never did. Q. I suppose you would not marry any man that treated you badly in the course of three hours?—A. No, I would not. Q. Did you ever complain to any person before you went to Mr. Mc. Nab?—A. Yes: to Mrs. Hill.

CHIEF JUSTICE. Is Mrs. Hill a relation of yours?—A. Yes: a very distant one.

JUROR. (*Foreman.*) You have not followed business for six years?—A. No. Q. You have been speaking about gathering rents, what have you to live on?—A. Ten guineas a year: my sister has the same, and I am to receive the rents. Q. Is that the whole

of your means of livelihood: do you earn any thing else?—A. No, Sir.

Mr. JUSTICE KELLY. What do you pay Mrs. Hill for your lodging?—A. I did not make any agreement.

Mr. MAC NALLY. Did you ever swear that you had twenty-five guineas a year to your own share?—A. No, Sir. Q. You have been unfortunate: have you ever made a complaint of the ingratitude of gentlemen of the army before this?—A. No, Sir.

Mr. GREENE. You said he paid you another visit in one of his tantrums: how did he behave?

Mr. MAC NALLY. That is the subject of another complaint.

CHIEF JUSTICE. It would be better to say nothing about that.

Mr. GREENE. You were asked if he did not pay you another visit: what did he do upon that occasion?—A. He wanted forcibly to take me out of the house.

CHIEF JUSTICE. Did he get into the house while you were in it?—A. Mrs. Hill was standing at the door, and he came in. Q. Did you go with him?—A. No: but he wanted me to go with him, and I went from him into the garden.

Mr. GREENE. Why did you go into the garden?—A. To get away from him.

Mr. JUSTICE KELLY. When you went home did you tell Mrs. Hill what happened?—A. Yes, my Lord: she came for me. Q. Where to?—A. To the barrack. Q. So then you went home with her?—A. No, my Lord: she came for me first and demanded me: and he swore by his eternal Jesus I should not go.

CHIEF JUSTICE. Then Mrs. Hill knew you were in the barracks against your will for three days?—A. Yes, my Lord.

Mr.

Mr. JUSTICE KELLY. How soon after you were brought into the room, forcibly, as you say, did Mrs. Hill come for you? Is she any relation of yours?—

A. Yes: a very distant one. Q. So the very day you were taken, she came for you?—A. Yes, my Lord;

but he would not let me go: and then I got and escaped on the Saturday. Q. What time of the day was it she came: you heard her voice?—A. Yes.

Q. And pray now, my good girl, who was it she applied to?—A. Mr. Smith. Q. And he refused to let you go back with her?—A. Yes, my Lord.

Q. Were there any officers there?—A. No, there were not. Q. Is there any Justice of the peace near the place?—A. Yes, there is. Q. You heard Mrs. Hill demand you?—A. Yes, my Lord: I cried. Q. And you heard him refuse to let you go?—A. Yes, my Lord, I did, and swear I should not go.

Mr. MAC NALLY. Is there any magistrate near the town?—A. Yes. Q. How near to Mrs. Hill's?—A. About a quarter of a mile.

CHIEF JUSTICE. Does Mrs. Hill live farther than Mr. Coughran's?—A. Yes. Q. Does she live farther than the turn?—A. Yes: farther on the commons.

Mr. JUSTICE KELLY. Did Mrs. Hill ever offer to go any magistrate to have you rescued?—A. No, my Lord.

CHIEF JUSTICE. Nor to complain to the commanding officer?—A. No, my Lord.

Mr. JUSTICE KELLY. But she left you in the room and went away home, and never went to make any complaint to any person?—A. They were all very much alarmed.

CHIEF JUSTICE. How did they come to know he had brought you into the barrack secretly: how came it to be known?—A. I suppose by himself.

Q. He first ravished you, and then told it?—A. I cannot

cannot tell. I am sure he would be guilty enough to do it.

MR. MAC NALLY. You are sure of that?—*A.* Yes, I am very sure of it.

CHIEF JUSTICE. And Mrs. Hill never went to any magistrate, or called on any person to rescue her relation that was kept a prisoner by force?—*A.* No, my Lord. *Q.* Has Mrs. Hill any husband?—*A.* Yes. *Q.* And he lived in the same house?—*A.* Yes.

MR. MAC NALLY. Mrs. Hill's husband never came to your relief?—*A.* He is a very feeble man. *Q.* Can he speak?—*A.* Yes. *Q.* Did he ever go to a magistrate about your imprisonment?—*A.* No. *Q.* What did you say when Mrs. Hill went to demand you?—*A.* I cried out to her to bring me home, and begged of him to let me home, and told him he had a great sin to answer for: and I cried, and said, I would go in spite of any body, and he swore by his eternal Jesus that I should not.

CHIEF JUSTICE. Was Mrs. Hill in the room?—*A.* No, my Lord.

MR. JUSTICE KELLY. What reason did he give why you should not go?—*A.* I do not know.

CHIEF JUSTICE. You went to receive rents: where?—*A.* About the lower end of the town. *Q.* You know the bridge: was it at the Dublin side?—*A.* At the Dublin side. *Q.* How far from the bridge?—*A.* A short distance. *Q.* Why was it that you did not cross over the bridge and go at the front of the palace?—*A.* Because it was the shortest way. *Q.* Does the road go nearly out by the school-master's?—*A.* Yes. *Q.* How far does your tenant live?—*A.* About a mile.

JUROR. Why did you not go to Mr. Coughran, the magistrate, and complain?—*A.* Because I was innocent and did not think of it.

Mr.

Mr. JUSTICE KELLY. You took twelve days: eleven clear days, after you made your escape, before you swore informations against the prisoner?—A. Yes, my Lord. Q. Was it not reported that you and this gentleman had been familiar?—A. I don't know.

CHIEF JUSTICE. Was it not commonly known, did not Mrs. Hill proclaim it, that you were a prisoner with him?—A. She did.

Mr. JUSTICE KELLY. Were you not spoken of as having slept with him in the barrack before you swore informations?—A. Yes, it was.

JUROR. *Foreman.* You receive ten guineas a year for your sister and the same for yourself: do you lay it all out on yourself?—A. I might if I would. Q. Pray, Miss Rawson, have you any other kind of support except the ten guineas a year you mention?—A. No. Q. Has your sister?—A. No: she lives in the country.

Mrs. ANNE HILL, examined by Mr. GREENE.

Q. Do you know Sarah Rawson?—A. I do. Q. Where do you live?—A. In Tallagh. Q. Where does Miss Rawson live?—A. In my place. Q. Do you recollect the beginning of August last?—A. I do. Q. Do you recollect Miss Rawson being at the barrack about that time?—A. I do. Q. Do you remember calling at the barrack?—A. I do. Q. For what purpose?—A. To fetch her home with me. Q. Who was she there with to your knowledge?—A. Mr. Smith. Q. Had you any conversation with Mr. Smith about Miss Rawson?—A. I had: I went to him to entreat him to allow me to take her home with me. Q. What did Mr. Smith say?—A. He said, by his eternal God he would not. Q. Did she ever go back to you?—A. She returned on Saturday: he would not let her away with me when I went. Q. And you demanded her from him?—A. I did. Q. When she came home on Saturday did she

she give you an account of what had happened to her? —A. She said he had ruined her. Q. Did she tell you where she had been ravished by Mr. Smith?—A. Yes, at the back of the bishop's garden and shrubbery. Q. Did she state that she had been ravished more than once?—A. Yes. Q. Where again did she mention? —A. In the palace. Q. How long did she continue at the barrack?—A. From Wednesday to Saturday. Q. How came you to know that she was there?—A. A little boy told me.

Cross-examined by Mr. RIDGEWAY.

Q. You have seen the prisoner, Mr. Smith, before this?—A. I saw him in the town of Tallagh only once.

Q. Where was it you saw him: did you ever him in your own house?

CHIEF JUSTICE. What time was it that you went to the barrack?—A. It was night. Q. Were there any officers and soldiers there?—A. Yes: but the soldiers would not stir against their officers.

MR. RIDGEWAY. Did you ever see Mr. Smith, at your house?—A. Yes. Q. On what occasion?—A. He came in like any other gentleman, and asked for a drink of milk. Q. Don't you believe that he saw Miss Rawson at your house, and that she saw him?—A. I know nothing about it.

MR. JUSTICE KELLY. Did he go to your house?—A. Yes, my Lord. Q. And lit off his horse?—A. No, my Lord: he was on foot. Q. Don't you believe he went to your house because she was there?—A. No, I don't believe it. Q. How soon after she went to the barrack did you go to demand her?—A. The second day. Q. But not on the day she went there?—A. No.

MR. RIDGEWAY. Do you know Mr. Coughran?—A. Yes. Q. He lives near you?—A. Yes. Q. He

was in the country at the time of this transaction?—

A. I believe he was. Q. You never called on him to

complain?—A. No. Q. At the time you called at

the barrack to demand your relation, were you ad-

mitted into the room?—A. Yes, I was. Q. You sat

down?—A. I did. Q. And you talked to one ano-

ther?—A. We did. Q. And Mr. Smith was pre-

sent?—A. He was. Q. And swore he would not

let her go?—A. He did. Q. You took a little refresh-

ment?—A. I did. Q. What did you take?—A. A

glass of punch. Q. With Miss Rawson and Mr.

Smith?—A. Yes.

CHIEF JUSTICE. Was the door locked when you

went in?—A. No: but he swore I should not take her.

Q. Did you ever go there again?—A. No: I never

did. Q. You suffered her to remain there three days

and nights?—A. I did.

Mr. JUSTICE KELLY. Did Miss Rawson drink

any of the punch?—A. I did not see her. Q. Pray

was she not crying in a terrible manner?—A. Indeed

she did.

Mr. RIDGEWAY. What time did you leave the

barrack: was it about nine or ten?—A. It was. Q.

You did not leave the barrack alone?—A. No, I did

not. Q. Who accompanied you outside of the bar-

rack?—A. Mr. Smith's servant. Q. Did he go with

you a little of the way?—A. He did not, as I believe.

Q. Did he accompany you to pass the guards?—A.

He did.

Mr. JUSTICE KELLY. She told you that she had

been ravished: and after she told you that, you drank

punch with them both?—A. I took it with great

force. It was after she came home she said she was

done over. Q. And you never went to complain to

any person?—A. I came into town the next day,

and told Mr. Mc. Nab: and she was too unwell to

come with me.

Mr.

Mr. RIDGEWAY. Did the servant carry you any part of the way from the barrack?—A. No. Q. Did you go before any magistrate to make any charge against Mr. Smith?—A. No: I did not, on my oath. Q. Did any conversation pass between you and him?—A. No. Did he drink too with you?—A. No. I never drank any of his liquor but in the barrack.

Mr. JUSTICE KELLY. Was there any person in the room when Mr. Smith was there, and she told you what had happened, except yourselves?—A. No. Q. Did you lay hold of him, and tell him, you shan't keep my relation?—A. No.

CHIEF JUSTICE. Is she a relation of yours?—A. Yes, a cousin. Q. How near?—A. A second cousin.

JUROR. Who was it told you?—A. A little boy.

CHIEF JUSTICE. Did you go to the barrack to look for her before you heard she was there.—A. No.

JUROR, *Foreman*. What did the little boy tell you?—A. That she was in the barrack. Q. Who was it made the punch?—A. I do not know. Q. How long has Miss Rawson lived with you?—A. Since the seventh of July.

Mr. MAC NALLY. That was the day of the pattern at Tallagh?—A. Yes, it was.

JUROR, *Foreman*. How was she to pay you?—A. I made no agreement, until her cousin would come to town and settle with me.

Mr. JUSTICE KELLY. She was bred to the Millinary?—A. Yes. Q. Does she follow that now?—A. No. Her cousin brought her to the country for safety. Q. Where did she live?—A. In Baltinglass.

Mr. RIDGEWAY. We are done examining this witness.

Mr. GREENE. We close on the part of the prosecution.

Mr. MAC NALLY. Then on behalf of Mr. Smith we will call but few witnesses.

JANE KANE, *examined by Mr. MAC NALLY.*

Q. Are you married?—A. I am. Q. What is your husband?—A. A labourer. Q. Do you know Miss Rawson?—A. I saw her in a field. I know her by sight. Q. Do you know Mr. Smith?—A. I know him by sight. Q. Did you ever see them together in a field?—A. I did. Q. Is that the field called Reilly's field?—A. It is. Q. At the time you say you saw them in that field, in what situation were they?—A. I saw her first, and looking behind her; and I saw him after, coming over the ditch. Q. On Mr. Smith's coming over the ditch, how did Miss Rawson conduct herself?—A. She went easy. Q. With what gait did he cross the field?—A. Pretty fast. Q. How long did you see them together?—A. About half an hour. Q. What were they doing?—A. They were sitting on the grass, throwing little things at one another. Q. You mean they were throwing what they call lumps of love?—A. Yes, Sir. Q. Did they both get up together?—A. Yes. Q. Were you so situated as that they both could see you?—A. Yes, Sir: I was gathering sprigs. Q. In what manner did they go away?—A. I did not see them going. Q. Did you see Miss Rawson run, and Mr. Smith follow her?—A. She was before him. Q. Did you hear any person cry out while you were in the field?—A. No.

Cross-examined by Mr. GREENE.

Q. When was it that you first told this story, that you have now mentioned on the table?—A. When I came home. Q. Who did you tell it to?—A. Kitty Walsh. Q. What is your husband?—A. A labourer: in the employment of the bishop's steward.

CHIEF JUSTICE. What way of life is Mrs. Hill in?—A. I don't know. Q. Do you know her?—A. No: I do not know her at all.

THOMAS DUNN *examined by* Mr. RIDGEWAY.

Q. Pray what are you?—A. A labourer. Q. Were you working near the bishop's palace in the beginning of August last?—A. I was. Q. Can you recollect at any time during that month, seeing Mr. Smith and Miss Rawson together?—A. I saw him, and a young woman along with him.

CHIEF JUSTICE? Where was it you saw them?—A. At the back of the barrack, going to the gate.

Mr. RIDGEWAY. What time in the month of August was it, as nearly as you can guess?—A. I cannot be particular. Q. What time of the day was it?—A. I believe it was about one o'clock.

CHIEF JUSTICE. What day of the week was it?—A. It was on a Wednesday.

Mr. RIDGEWAY. What gate was it you say you saw them at?—A. The bishop's gate; going out into the field, for the cattle to go through. Q. Was the gate open or shut when they approached it?—A. It was shut, and bolted inside. Q. Did you observe them there for any length of time?—A. I did. They walked together: and when he came to the gate he found it fast, and he went round to the street and came to the gate; and the very moment she heard the bolt of the gate she was at it before it was open, and as soon as it was open she went in. Q. Did you hear her cry out in the field?—A. No: I did not.

CHIEF JUSTICE. What did the young woman do when the prisoner went round to the street?—A. She sat down by a tree: but I cannot tell what she did there. Q. Did you ever hear this matter spoken of?—A. I did. A. How soon?—A. In two or three days.

Mr.

MR. JUSTICE KELLY. Did you tell what you saw when you went home?—A. No : I did not.

SERJEANT LOMAX, *examined by Mr. MAC NALLY.*

Q. Do you know a young lady of the name of Rawson?—A. Yes, Sir, I do. Q. Did you ever see her in the bishop's house, where you are quartered?—A. I did, Sir. Q. Can you take upon you to say, as near as you can guess, what time it was you saw her?—A. It was about half past eight o'clock in the evening. Q. In what month was it?—A. In the month of August : in the lawn. Q. What do you mean by the lawn?—A. I mean in the front part of the house that is like a court and grass plot. She came through my room from the stairs, and staid there a quarter of an hour, and came back. Q. Was she alone?—A. She was not. Q. Who was with her?—A. Mrs. Carr. Q. Has Mrs. Carr a child?—A. She has. Q. Had she the child in her arms at that time?—A. She had. Q. Did you see it?—A. I did, and so did every person present. Q. You know Mr. Smith of course?—A. Yes. Q. Was he at home at this time?—A. He was not : he had left the whole charge of the place to me. Q. Did Miss Rawson appear to make any complaint?—A. She did not. Q. If she had chosen, might she have left the barrack?—A. she might.

Cross-examined by Mr. GREENE.

Q. Don't you believe the door of the chamber was locked for nearly three days?—A. It was not. When Mr. Smith came home he went up stairs ; I followed him as far as the stairs : he rapped at the door, she was in the inside, and asked " who comes there?" he said " a friend;" and she opened the door and he

went in. Q. Did you ever hear she wanted to get out of the room, and could not?—A. I did not.

Mr. MAC NALLY. Did you see Mrs. Hill there?—A. I did. Q. How did she get home?—A. She was carried off drunk.

CHIEF JUSTICE. That day when she was in the lawn, did Mr. Smith's servant go out with him?—A. No: but he was about the house on his business.

Mr. RIDGEWAY. My Lord, we close for the prisoner.

CHIEF JUSTICE.

GENTLEMEN OF THE JURY,

I will not take up your time by stating to you at length, the evidence that has been given.—The crime of which the prisoner at the bar stands charged, is of the most horrid and abominable nature; but that, gentlemen of the jury, is to have no weight with you, you are not to look for punishment of the individual, but you are to enquire, Whether the prisoner at the bar did feloniously ravish the prosecutor, and carnally know her, against her will? The woman has sworn positively to a fact: in order to see if she has sworn truly, you are to examine first, the circumstances sworn to, the manner in which it was sworn, and to see whether under all the circumstances of the case, credit is to be given to what the woman swore. You are to see if she has been consistent with the account given by the other witnesses that she produced, and to whom she calls on you to give credit; and if you should find that there has been no inconsistency between them, then you are to try if the witnesses for the prisoner have contradicted her in any of those circumstances she has sworn to, so that, if they swear true, she must have sworn false; and then you are to enquire to which species of evidence you will give belief. (*His Lordship then briefly stated the leading features of the account given by the prosecutor.*)

This, gentlemen of the jury, is the account given by the prosecutor: an account, in my mind big with a thousand improbable circumstances. If she went willingly with the prisoner to his room in the barrack, and remained there for three days, which seems to be the defence he relies upon, the circumstance of locking the door upon her will require to be explained to your satisfaction: the *entire* of the case furnishes a thousand observations to create great
hesitation

hesitation on the minds of the court and the jury. She is a strong and healthy looking woman, she had a number of fields to pass in a public place, and in the middle of the day, and that by force; and, if you believe her testimony, against her will; this will require some consideration before you give entire credit to it. It does not appear that she was a woman overpowered by weakness; she exhibited no such appearance on the table, nor did she pretend to it. She called on her relation Mrs. Hill, to corroborate her story; she brought her to shew that she was detained by the prisoner in the barrack, against her will, and by force; and that no person would be suffered to see her: this is another material circumstance in the case which it is for you to decide. Mrs. Hill, it appears from her own evidence, was permitted to enter the barrack, she did not desire admission and was refused, but she gets in, and is allowed to talk with the girl, and to continue in her company for a considerable length of time; and all that appears to have passed on that occasion is, that she told her relation she was ruined, which she would have said at all events, and to any other person: but what farther does she do? she desires leave to go away, and he swears shall not: that he won't let her. The female frame is strong and nervous, and not subject to fear, and particularly strong in one case, and that is in defence of their chastity. This woman is very quiet: she asks to go away; he swears she shan't, she never screamed out, or applied to her cousin, and said, "Cousin, you shall not leave me, I will go with you;" but appears they sat quietly together, and, at length, without any struggle on the part of the prosecutor, to get away with her cousin, or any attempt made by her cousin to bring her away, the old dame retires to her cabin, and there she remains quietly, without doing any one thing in order to procure the freedom of her relative. This, gentlemen, is another circumstance, which you will also take into your consideration, and decide whether there was that kind of locking-up, and detaining forcibly, which the first witness swore there was. The girl never seized on her relation, she never threw herself on her neck, she never begged of her not to leave her, she never did any one of those things, which, according to my knowledge of human nature, would have been done, if the story she has this day told on the table was fact: if it was true, she would, at the hazard of her life, have attempted to make out of the room when the old woman went away. Could the old woman not have found the way to the magistrate, that lived almost next door to her? Was there nobody else to apply to? Was there no officer commanding at the barrack to have applied to? Could she not have walked to Dublin? But, on the contrary, she goes to the barrack, she sits there, she drinks punch with the prisoner and her relation, and, if you believe the serjeant, she goes away intoxicated. What did

did the prosecutor say? She did not agree with the account given by the person she depended upon to corroborate her. She said she did not see Mrs. Hill : that she heard her on the stairs demand of the prisoner to let her home, and heard him swear he would not : that Mrs. Hill was not let into the room, and denied the punch altogether ! here then is a contradiction that requires some explanation, in order to give such credit to the first witness, as would warrant you to pronounce him guilty of the crime with which he stands charged.

My brother KELLY observes, it was eleven days after she made her escape, before she gave information of it to any person, and it appears she said she would go to Mr. Nab, and the old woman said she told it the day after to him, and he is not here to corroborate this evidence in so material a point. It strikes me that this implies some contradiction, supposing there were no improbabilities in the account given by the prosecutor, and that it was consistent, which I think it is not,

You will see, gentlemen, if the account deserves credit. The young woman Kane is produced, who gives a clear account of what she saw. She appears to be a woman of decent appearance, and of an ingenious countenance : if that woman deserves credit, which entirely rests with you, from the account she gives of seeing the prisoner in the field, her having seen them, (if you believe her,) walking together : sitting down together in a corner : throwing, as the counsel described it lumps of love at each other : getting up together, and walking away, it appears that the prosecutor had been there on some expectation, and that the appearance of the prisoner was not a matter of surprize to her. The labourer is next called, and he appears to be consistent ; it is for you to decide whether he appeared or looked any thing that should induce you not to give credit to him? If you should be satisfied in your mind that he was not a correct witness, and that he did not state the truth, then certainly that would affect the prisoner, in a manner that the evidence against him could not. The serjeant was called, he swore she passed in and out of the room through his room, in company with the servant woman : he swears that when she was walking with the woman that she had her child in her arms, it is for you to decide which account deserves credit. She never complained to him, which she might have done, if she was detained there against her will. It is also observable that this witness does corroborate the account given by Mrs. Hill, with respect to her admittance and drinking the punch ; and he says that she went away greatly intoxicated : this fact Mrs. Hill denies. He does also contradict Miss Rawson in her statement that she was locked up ; for he swears positively that on the day that the prisoner went out, and that he says, she was walking in the square where

where the green plot is, she had the key of the room herself: and that when he came home and went up stairs, the door was locked on the inside; upon which, he rapped at the door; and she, if you believe the witness, in a true military challenge, demanded "Who comes there," to which the prisoner answered, "A friend," and the door was instantly opened by her, and he went in; and the door was closed. As the case appears to me the prosecutor is contradicted by her own witness, Mrs. Hill: by the serjeant: by the labourer: and by the girl. It does appear that, after she had been ravished by the prisoner, instead of making her escape, she goes with him to the field: waits till he goes round to the front door: sits down under a tree, and then, flies when the back door was opened, into the lieutenant's room, and there she remains. If, gentlemen of the jury, you can give credit to those witnesses, for the prisoner, then, you must find him guilty; but if you doubt that in the evidence they gave, they have not spoken the whole truth, you must acquit the prisoner at the bar.

The jury without hesitation, accordingly brought in their verdict, NOT GUILTY.

Mr. Smith was immediately discharged from custody.

THE END.



K